

SPS

COMMONWEALTH OF VIRGINIA  
CIRCUIT COURT OF FAIRFAX COUNTY  
4110 CHAIN BRIDGE ROAD  
FAIRFAX, VIRGINIA 22030  
703-691-7320  
(Press 3, Press 1)

Ronald Farsetti vs. Costco Wholesale Corporation et al

CL-2014-0005082

TO: Costco Wholesale Corporation  
d/b/a Costco Wholesale 204  
Serve: CT Corporation System RA  
4701 Cox Road Suite #285  
Glen Allen VA 23060

SUMMONS – CIVIL ACTION

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the Clerk's office of this Court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment or decree against such party either by default or after hearing evidence.

APPEARANCE IN PERSON IS NOT REQUIRED BY THIS SUMMONS.

Done in the name of the Commonwealth of Virginia, on April 16, 2014.

JOHN T. FREY, CLERK

By: Ana M Quintan Blander  
Deputy Clerk

Plaintiff's Attorney: M Thomas McWeeny

EXHIBIT

A

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

FILED  
CIVIL INTAKE

2014 APR 14 PM 12:30

JOHN T. FREY  
CLERK, CIRCUIT COURT  
FAIRFAX, VA

**RONALD FARSETTI**

1727 Massachusetts Avenue, N.W., #602  
Washington, D.C. 20036

Plaintiff,

v.

**COSTCO WHOLESALE CORPORATION d/b/a  
COSTCO WHOLESALE 204**

4725 West Ox Road  
Fairfax, VA 22030

2014 05082

Case No.: \_\_\_\_\_

SERVE: CT Corporation System  
Registered Agent  
4701 Cox Road, Suite 285  
Glen Allen, Virginia 23060

and

**KIR FAIRFAX, L.P. subsidiary of  
KIMCO INCOME OPERATING PARTNERSHIP, L.P.  
and/or KIMCO REALTY CORPORATION**  
3333 New Hyde Park Road, Suite 100  
New Hyde Park, NY 11040

SERVE: CT Corporation System  
Registered Agent  
4701 Cox Road, Suite 285  
Glen Allen, Virginia 23060

Defendants.

△  
#1

LAW OFFICES  
COONZ, MCKENNEY,  
JOHNSON, DEPAOLIS  
& LIGHTFOOT  
WILLOW WOOD PLAZA 1  
100 EATON PLACE, SUITE 200  
FAIRFAX, VIRGINIA 22030

(703) 218-4410

{00106332;v1}

COMPLAINT

**COMES NOW**, the Plaintiff, **RONALD FARSETTI**, by counsel, for his Complaint, seeking judgment and award of execution against the Defendants, **COSTCO WHOLESALE CORPORATION** d/b/a **COSTCO WHOLESALE 204** and **KIR FAIRFAX, L.P. subsidiary of KIMCO INCOME OPERATING PARTNERSHIP, L.P.** and/or **KIMCO REALTY CORPORATION**, and in support thereof states as follows:

1. Defendant **COSTCO WHOLESALE CORPORATION** d/b/a **COSTCO WHOLESALE 204** (hereinafter referred to as, "Costco") is a corporation and/or trade name of a corporation registered to do business in the Commonwealth of Virginia, and was at all times relevant hereto the owner, operator, and/or lessee, and/or manager of a membership warehouse club located at 4725 West Ox Road, Fairfax, VA 22030.

2. Defendant **KIR FAIRFAX, L.P. subsidiary of KIMCO INCOME OPERATING PARTNERSHIP, L.P.** and/or **KIMCO REALTY CORPORATION** (hereinafter referred to as, "Kimco") is the owner and/or lessor of a membership warehouse club located at 4725 West Ox Road, Fairfax, VA 22030.

3. Plaintiff **RONALD FARSETTI** was an invitee and/or licensee on the Costco Warehouse #204 premises (hereinafter referred to as "the Costco warehouse") located at 4725 West Ox Road, Fairfax, VA 22030 on June 27, 2012.

LAW OFFICES  
COONZ, MCKENNEY,  
JOHNSON, DEPAOLIS  
& LIGHTFOOT  
WILLOW WOOD PLAZA 1  
100 EATON PLACE, SUITE 200  
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COUNT I

{00106332;v1}



**Negligent Maintenance of Premises:**  
Defendants, **COSTCO WHOLESALE CORPORATION** d/b/a **COSTCO WHOLESALE**  
**204** and **KIR FAIRFAX, L.P.** *subsidiary of* **KIMCO INCOME OPERATING**  
**PARTNERSHIP, L.P.** and/or **KIMCO REALTY CORPORATION**

Plaintiff adopts by reference each and every allegation in Paragraphs 1 through 3 above, and further alleges as follows:

4. On or about June 27, 2012, at approximately 12:00 p.m., plaintiff was conducting himself in a careful and prudent manner while walking on the premises and/or aisles and/or floors and/or pedestrian walkway within the Costco warehouse, located at 4725 West Ox Road, Fairfax, VA 22030.

5. The plaintiff, while walking from the area where toilet tissue was stored and returning to his shopping cart located outside of the area where toilet tissue was stored, slipped on water and/or other liquid substance on the floor and/or slippery surface of the floor and fell on the floor.

6. It was the duty of Defendants "Costco" and/or "Kimco" to use reasonable and ordinary care in maintaining the common walkways and other premises of the Costco warehouse to avoid injury to defendants' invitees and/or licensees.

7. Notwithstanding said duties, Defendants did then and there so carelessly and negligently maintain the premises of the Costco warehouse so as to cause the plaintiff to slip and fall on water and/or liquid substance on the floor and/or slippery surface of the floor, which defendants caused to be there and/or had not removed in a timely fashion. Defendants' negligent acts of commission and/or omission include, but are not limited to, the following:

{00106332;v1}

- (a) failure to properly inspect and maintain the walkway and/or premises which the defendant knew or should have known would be traversed by invitees and/or licensees, and that such area would be prone to water and/or liquid substance and/or slippery surface and/or unsafe conditions; and/or
- (b) failure to provide a safe alternate route in such event the walkway became obstructed and/or unsafe; and/or
- (c) failure to provide any warnings to the plaintiff and/or adequate warnings to invitees and licensees of the Costco warehouse that an unsafe condition would be found in a walkway area; and/or
- (d) failure to provide an adequate pedestrian pathway from the area where toilet tissue was stored; and/or remove the water and/or liquid substance on the floor and/or place a mat over slippery surface to lessen the likelihood of slip and fall accidents.

8. As a direct and proximate result of the negligence of the Defendants, as aforesaid, the plaintiff, Ronald Farsetti, was caused to sustain serious and permanent injuries; has sustained permanent disability; has suffered and will suffer great pain of body and mind; has incurred and will incur in the future medical and related bills in an effort to be cured of said injuries; and has been and will continue to be restricted in the conduct of his personal activities.

LAW OFFICES  
COONZ, MCKENNEY,  
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& LIGHTFOOT  
WILLOWWOOD PLAZA 1  
800 EATON PLACE, SUITE 200  
FAIRFAX, VIRGINIA 22030

(703) 218-4410



**COUNT II**

**Negligent Failure to Inspect:**

Defendants, **COSTCO WHOLESALE CORPORATION d/b/a COSTCO WHOLESALE - 204** and **KIR FAIRFAX, L.P. subsidiary of KIMCO INCOME OPERATING PARTNERSHIP, L.P. and/or KIMCO REALTY CORPORATION**

Plaintiff adopts by reference each and every allegation in Paragraphs 1 through 8 above, and further alleges, in addition and/or in the alternative, as follows:

9. On or about the same date heretofore stated, the Defendants knew or should have known that floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored was dangerous.

10. Notwithstanding said duty, Defendants acted negligently, carelessly, and recklessly by failing to adequately and properly inspect the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored which they owned and/or maintained and/or managed to ensure that the area was safe and reasonably free of all dangerous conditions for invitees and/or licensees on the premises.

11. Defendants' negligent acts of commission and/or omission include, but are not limited to, the following:

- (a) failure to adequately and properly inspect the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored within the Costco warehouse to ensure that it was in a safe condition and reasonably free of all dangerous conditions; and/or
- (b) failure to warn and/or adequately warn of the dangerous condition of the floor and/or aisle and/or pedestrian walkway

outside of the area where toilet tissue was stored within the Costco warehouse.

12. The water and/or other liquid substance on the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored was not reasonably apparent nor discoverable nor able to be observed by the Plaintiff.

13. As a direct and proximate result of the negligence of the Defendants, as aforesaid, the plaintiff, Ronald Farsetti, was caused to sustain serious and permanent injuries; has sustained permanent disability; has suffered and will suffer great pain of body and mind; has incurred and will incur in the future medical and related bills in an effort to be cured of said injuries; and has been and will continue to be restricted in the conduct of his personal activities.

### COUNT III

#### **Negligent Failure to Warn:**

Defendants, **COSTCO WHOLESALE CORPORATION** d/b/a **COSTCO WHOLESALE 204** and **KIR FAIRFAX, L.P.** *subsidiary of* **KIMCO INCOME OPERATING PARTNERSHIP, L.P.** and/or **KIMCO REALTY CORPORATION**

Plaintiff adopts by reference each and every allegation in Paragraphs 1 through 14 above, and further alleges, in addition and/or in the alternative, as follows:

15. On or about the same date heretofore stated, the Defendants knew or should have known that the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored within the Costco warehouse was dangerous.

LAW OFFICES  
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WILLOW WOOD PLAZA 1  
30 EATON PLACE, SUITE 200  
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{00106332;v1}



16. Knowing of such danger and being the owner and/or maintainer of the premises, Defendants had a duty to warn invitees and/or licensees of the Costco warehouse of such dangerous conditions.

17. Defendants had no reason to believe that Plaintiff would realize the presence of water and/or other liquid substance on the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored on which he was walking.

18. Defendants failed to exercise reasonable care to inform Plaintiff of the dangerous conditions the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored within the Costco warehouse and the facts that made the floor and/or aisle and/or pedestrian walkway likely to be dangerous. Such warning could have been accomplished at minimal cost to the Defendant.

19. Notwithstanding the above-said duties, Defendants issued no reasonable nor adequate warnings regarding dangerous conditions on the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored within the Costco warehouse. The Defendants' failures to act in a reasonable manner include, but are not limited to:

- (a) failing to correct unsafe conditions in spite of prior knowledge of the conditions and the ability to correct such conditions; and/or
- (b) failing to adequately warn Plaintiff of the potential risks of walking upon the floor and/or aisle and/or pedestrian walkway where he was walking; and/or



(c) failing to warn Plaintiff that the floor and/or aisle and/or pedestrian walkway on which he was walking and/or about to walk upon was slippery and/or wet.

20. As a direct and proximate result of the Defendants' failure to warn that the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored within the Costco warehouse was dangerous to walk upon, Plaintiff was unaware of said dangers.

21. As a further direct and proximate result of the Defendants' breach of duty to warn the Plaintiff that the floor and/or aisle and/or pedestrian walkway outside of the area where toilet tissue was stored within the Costco warehouse was dangerous to walk upon, Plaintiff was injured while walking across the floor and/or aisle and/or pedestrian walkway in an ordinary, foreseeable, accepted manner, through no fault of the Plaintiff.

22. As a direct and proximate result of the negligence of the Defendants, as aforesaid, the plaintiff, Ronald Farsetti, was caused to sustain serious and permanent injuries; has sustained permanent disability; has suffered and will suffer great pain of body and mind; has incurred and will incur in the future medical and related bills in an effort to be cured of said injuries; and has been and will continue to be restricted in the conduct of his personal activities.

LAW OFFICES  
MOONZ, MCKENNEY,  
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& LIGHTFOOT  
WILLOW WOOD PLAZA 1  
30 EATON PLACE, SUITE 200  
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{00106332;v1}

**AD DAMNUM**

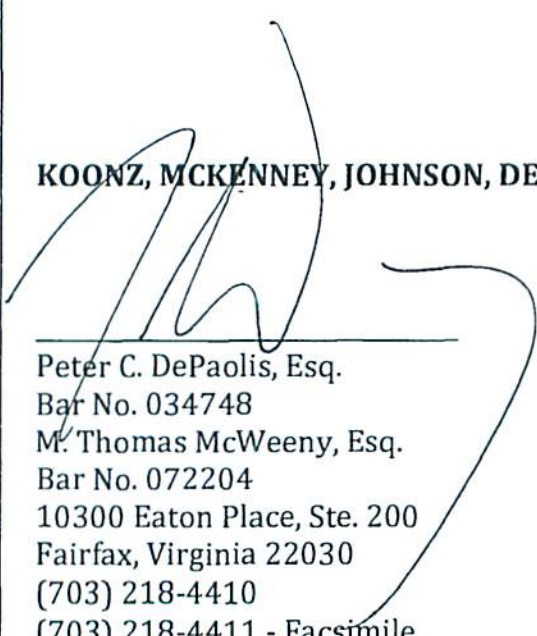
WHEREFORE, the plaintiff, Ronald Farsetti, demands judgment against Defendants, **COSTCO WHOLESALE CORPORATION** d/b/a **COSTCO WHOLESALE 204** and **KIR FAIRFAX, L.P.** *subsidiary of* **KIMCO INCOME OPERATING PARTNERSHIP, L.P.** and/or **KIMCO REALTY CORPORATION**, jointly and severely, in the full and just amount of **THREE MILLION DOLLARS** (\$3,000,000.00), plus pre-judgment interest from June 27, 2012, and costs on this behalf expended.

**JURY TRIAL REQUEST**

Plaintiff, by counsel, respectfully requests trial by jury.

**RONALD FARSETTI**  
By Counsel

**KOONZ, MCKENNEY, JOHNSON, DEPAOLIS & LIGHTFOOT**



Peter C. DePaolis, Esq.  
Bar No. 034748  
M. Thomas McWeeny, Esq.  
Bar No. 072204  
10300 Eaton Place, Ste. 200  
Fairfax, Virginia 22030  
(703) 218-4410  
(703) 218-4411 - Facsimile

LAW OFFICES  
KOONZ, MCKENNEY,  
JOHNSON, DEPAOLIS  
& LIGHTFOOT  
WILLOW WOOD PLAZA 1  
100 EATON PLACE, SUITE 200  
FAIRFAX, VIRGINIA 22030

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{00106332;v1}



**The Marston Agency, Inc.**

11535 Nuckols Road, Suite A  
 Glen Allen, VA 23059  
 (800) 308-7790 - (804) 967-9300 (Richmond)

05/13/14

**RETURN ON SERVICE**

**Plaintiff:** Ronald Farsetti  
**Defendant:** Costco Wholesale Corporation, et al  
**Serve:** Kir Fairfax LP  
 Serve: Ct Corp. R/A  
 4701 Cox Road, Suite 285  
 Glen Allen, VA 23060  
**Contact:** Peter C. DePaolis, Esq  
 10300 Eaton Place  
 Ste 200  
 Fairfax, VA 22030

**Court:** Fairfax County Circuit Court  
**Case:** cl-2014-0005082  
**Return Date:**  
**Time:**

**Phone:** 7032184410

**Type(s) of Writ(s)**

Summons and Complaint Interrogatories Request for Production  
 Request for Admissions

Witness/Defendant Kir Fairfax LP was served according to law, as indicated below:

- ☐ **PERSONAL** By delivering a copy of the above described process in writing to him/her in person.
- ☐ **SUBSTITUTE** Being unable to make personal service and not finding the above mentioned person at his/her usual place of abode by delivering a copy of the said process and giving information of it's purport at his usual place of abode to \_\_\_\_\_ who is a member of his/her family and is the \_\_\_\_\_ of the above mentioned person, other than a temporary sojourner or guest, and who is the age of 16 years or older.
- ☐ **POSTED** Being unable to make a personal service and not finding the above mentioned person at his/her usual place of abode nor any member of his/her family the age of 16 years or older at said abode by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such place of abode.
- ☒ **BUSINESS** At usual place of business or employment during business hours, by delivering the above specified paper(s) and giving information of it's purport to the person found there in charge of such business or place of employment.
- ☐ Copy mailed to judgement debtor on the date below after serving the garnishee unless a different date is shown below.
- ☐ Certified Mail
- ☐ Not Found
- ☐ Served on Secretary of the Commonwealth

I, C. DePaolis hereby certify under penalty of perjury that I am over the age of 18 and not a party or otherwise interested in the subject matter in controversy.

**Served Date:** 5-13-14 **Served Time:** 900

Signature of Process Server 8

**Notary**

State of: Virginia

County/City of: Henrico, VA Beach, Prince William, Rockingham.

I, the undersigned, a Notary Public in and for the above-mentioned jurisdiction, hereby certify that before me appeared the Process Server, who, under oath, stated that service was made as stated above. Sworn before me this 16 day of May 2014

Notary Public: C. Goodloe

Type of Service: A	Auth Attempts: 1	Order: 339909	1 Day Rush: No	2 Day Rush: Yes		
Attempts	-1-	-2-	-3-	-4-	-5-	-6-
Date:						
Time:						
Server:						

REMARKS -

Teresa Brown, per affidavit



## Service Authorization


CT Corporation System is registered agent for various corporations, limited liability companies and partnerships. The following persons are designated in the office of the corporation upon whom any process, notice or demand may be served as representatives of the Corporation.

Katie Bush

Teresa Brown

Lisa Uttech

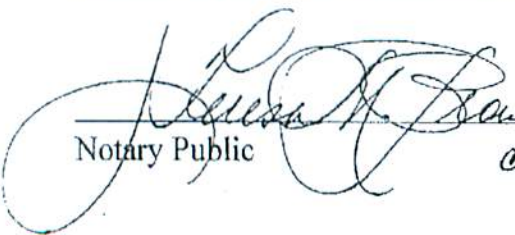
This authorization pertains to the authority of individuals to receive process on behalf of CT Corporation System, Business Filings Incorporated, and National Registered Agents, Inc. It does not certify the receipt or acceptance of any specific process.

  
\_\_\_\_\_  
Lisa Uttech  
Corporate Operations Manager  
CT Corporation System  
A Wolters Kluwer Company

State of Virginia  
County of Henrico

This day personally appeared before me, Lisa Uttech, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.

Subscribed and sworn before me this 5<sup>th</sup> day of December, 2013

  
\_\_\_\_\_  
Notary Public

#286304

COMMISSION EXP: 8/31/17





SPS

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Ronald Farsetti  
Plaintiff

VS

Costco Wholesale Corporation et al  
Defendant

CL-2014-0005082

Subtype: Complaint, Plaintiffs First Set of  
Request for Admission and Plaintiffs First Set of  
Interrogatories and Request for the Production of  
Documents.  
Def # 2

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to wit:

This day \_\_\_\_\_

personally appeared before the undersigned Notary Public in and for the City/County and State  
aforesaid, and, having been first duly sworn according to law, disposes and states as follows: that  
he/she is not a party to, or otherwise interested in, the subject matter in controversy in the within  
cause, that he/she is over the age of 18 years; that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at  
\_\_\_\_\_ o'clock \_\_\_\_m. he/she served the within Complaint, in person, on the Defendant  
\_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_ and the Defendant is / is not a  
resident of the State of Virginia.

\_\_\_\_\_  
AFFIANT

\_\_\_\_\_  
TITLE

Subscribed and sworn to before me in my City/County and State aforesaid, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary ID #: \_\_\_\_\_

**The Marston Agency, Inc.**

11535 Nuckols Road, Suite A  
 Glen Allen, VA 23059  
 (800) 308-7790 - (804) 967-9300 (Richmond)

05/13/14

**RETURN ON SERVICE**

**Plaintiff:** Ronald Farsetti  
**Defendant:** Costco Wholesale Corporation, et al  
**Serve:** Costco Wholesale Corporation  
 Serve: CT Corporation, R/A  
 4701 Cox Road, Suite 285  
 Glen Allen, VA 23060  
**Contact:** Peter C. DePaolis, Esq  
 10300 Eaton Place  
 Ste 200  
 Fairfax, VA 22030

**Court:** Fairfax County Circuit Court  
**Case:** cl-2014-0005082  
**Return Date:**  
**Time:**  
**Phone:** 7032184410

**Type(s) of Writ(s)**

Summons and Complaint Interrogatories Request for Production  
 Request for Admissions

Witness/Defendant Costco Wholesale Corporation was served according to law, as indicated below:

- ( ) **PERSONAL** By delivering a copy of the above described process in writing to him/her in person.  
 ( ) **SUBSTITUTE** Being unable to make personal service and not finding the above mentioned person at his/her usual place of abode by delivering a copy of the said process and giving information of it's purport at his usual place of abode to \_\_\_\_\_ who is a member of his/her family and is the \_\_\_\_\_ of the above mentioned person, other than a temporary sojourner or guest, and who is the age of 16 years or older.  
 ( ) **POSTED** Being unable to make a personal service and not finding the above mentioned person at his/her usual place of abode nor any member of his/her family the age of 16 years or older at said abode by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such place of abode.  
 (X) **BUSINESS** At usual place of business or employment during business hours, by delivering the above specified paper(s) and giving information of it's purport to the person found there in charge of such business or place of employment.  
 ( ) Copy mailed to judgement debtor on the date below after serving the garnishee unless a different date is shown below.  
 ( ) Certified Mail  
 ( ) Not Found  
 ( ) Served on Secretary of the Commonwealth

I, C. Dunby hereby certify under penalty of perjury that I am over the age of 18 and not a party or otherwise interested in the subject matter in controversy.

**Served Date:** 5-13-14 **Served Time:** 9:00

Signature of Process Server

Notary

State of: Virginia

County/City of:

Henrico, VA Beach, Prince William, Rockingham.

I, the undersigned, a Notary Public in and for the above-mentioned jurisdiction, hereby certify that before me appeared the Process Server, who, under oath, stated that service was made as stated above. Sworn before me this 16 day of May/June 20 14

Notary Public:

Type of Service: A Auth Attempts: 1 Order: 339909 1 Day Rush: No 2 Day Rush: Yes  
 Attempts -1- -2- -3- -4- -5- -6-

Date:						
Time:						
Server:						

REMARKS -

Teresa Brown, per affidavit





## Service Authorization


CT Corporation System is registered agent for various corporations, limited liability companies and partnerships. The following persons are designated in the office of the corporation upon whom any process, notice or demand may be served as representatives of the Corporation.

Katie Bush

Teresa Brown

Lisa Uttech

This authorization pertains to the authority of individuals to receive process on behalf of CT Corporation System, Business Filings Incorporated, and National Registered Agents, Inc. It does not certify the receipt or acceptance of any specific process.

  
\_\_\_\_\_  
Lisa Uttech  
Corporate Operations Manager  
CT Corporation System  
A Wolters Kluwer Company

State of Virginia  
County of Henrico

This day personally appeared before me, Lisa Uttech, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.

Subscribed and sworn before me this 5<sup>th</sup> day of December, 2013

  
\_\_\_\_\_  
Notary Public

#286304

COMMISSION EXP : 8/31/17



SPS

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Ronald Farsetti  
Plaintiff

VS

CL-2014-0005082

Subtype: Complaint, Plaintiffs First Set of  
Request for Admission and Plaintiffs First Set of  
Interrogatories and Request for the Production of  
Documents.

Def # 1

Costco Wholesale Corporation et al  
Defendant

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to wit:

This day \_\_\_\_\_

personally appeared before the undersigned Notary Public in and for the City/County and State  
aforesaid, and, having been first duly sworn according to law, disposes and states as follows: that  
he/she is not a party to, or otherwise interested in, the subject matter in controversy in the within  
cause, that he/she is over the age of 18 years; that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at  
\_\_\_\_\_ o'clock \_\_\_\_m. he/she served the within Complaint, in person, on the Defendant  
\_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_ and the Defendant is / is not a  
resident of the State of Virginia.

\_\_\_\_\_  
AFFIANT

\_\_\_\_\_  
TITLE

Subscribed and sworn to before me in my City/County and State aforesaid, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary ID #: \_\_\_\_\_